

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

2:11-cr-048-JCM-CWH

JESUS GUADALUPE FELIX BURGOS,)

Defendant.)

ORDER

Presently before the court is defendant Francisco Flores-Jorge's motion to dismiss counsel. (Doc. # 264). The motion requests that this court dismiss counsel and appoint new counsel for sentencing proceedings. The sentencing hearing is currently set for October 2, 2012, at 10:30 a.m.

Pursuant to the District of Nevada's Local Rules, "[a] party who has appeared by attorney cannot while so represented appear or act in the case." LR IA 10-6. Here, Mr. Flores has appeared by his attorney. As such, he cannot file pro se motions; however, the circumstances surrounding Mr. Flores's instant motion warrant an exception from this general rule.

On August 9, 2012, Mr. Flores filed the instant motion. (Doc. # 264). Mr. Flores represents to the court that since entering a plea of guilty, "there's no communication at all despite Mr. Flores [*sic*] attempts to contact Mr. Roske." (Doc. # 264, 2). It appears that Mr. Flores's main contention is that Mr. Roske misinformed Mr. Flores as to the applicable sentencing guidelines in Mr. Flores's case. To date, neither the government nor Mr. Flores's attorney has responded. Without more, the court cannot determine whether there has been a breakdown in communication sufficient to require substitution of new counsel. *See United States v. Nguyen*, 262 F.3d 998, 1005 (9th Cir. 2001); *see also United States v. Moore*, 159 F.3d 1154, 1159-60 (9th Cir. 1998).

Thus, the court finds this matter appropriate for an ex parte hearing.

...

1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that Mr. Flores's motion to
2 dismiss counsel (doc. # 264) is set for an ex parte hearing on **Thursday, September 20, 2012, at**
3 **11:00 a.m.**

4 IT IS FURTHER ORDERED that the U.S. Marshal Service shall transport Mr. Flores from
5 his current detention facility to the Lloyd D. George U.S. Courthouse for the purposes of attending
6 this hearing.

7 DATED September 10, 2012.

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10 UNITED STATES DISTRICT JUDGE
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